

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

JAMES ANTHONY DAVIS,

Plaintiff,

vs.

STATE OF NEVADA, *et al.*,

Defendants.

3:12-cv-00208-RCJ-VPC

ORDER

This is a civil rights action submitted by plaintiff pursuant to 42 U.S.C. § 1983. However, under 28 U.S.C. § 1915(g), plaintiff has been banned from filing actions *in forma pauperis* unless he can show he is in imminent danger of serious physical injury. Plaintiff cannot proceed *in forma pauperis* in this action or any other civil action filed in any federal court because he has had three (3) or more prior actions dismissed for failure to state a claim upon which relief may be granted, or as frivolous or malicious.¹

On May 15, 2012, the court issued an order requiring plaintiff to either pay the \$350.00 filing fee for this action or submit an amended complaint showing that he is in imminent danger of serious physical injury. (ECF No. 6.) The court expressly cautioned plaintiff that this action will be dismissed if he fails to submit either the fee or show that he is in imminent danger of serious physical injury. On May 22, 2012, plaintiff submitted an amended complaint. (ECF No. 7.) In his amended complaint,

¹ See *Davis v. Brooks*, 3:04-cv-370-ECR-VPC; *Davis v. Coumou*, 3:04-cv-369-LRH-VPC; *Davis v. Metro Police*, 3:04-cv-368-HDM-VPC. The court takes judicial notice of its prior records in the above matters.

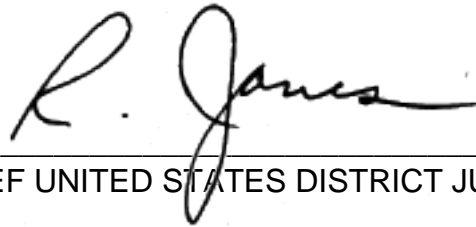
1 plaintiff fails to plausibly allege that he is in imminent danger of serious physical injury. *See Andrews*
2 *v. Cervantes*, 493 F.3d 1047, 1055 (9th Cir. 2007) (holding that the exception to § 1915(g) applies “if
3 the complaint makes a plausible allegation that the prisoner faced ‘imminent danger of serious physical
4 injury’ at the time of filing.”). Accordingly, the court dismisses this action.

5 **IT IS THEREFORE ORDERED** that this action is **DISMISSED without prejudice** for the
6 failure of plaintiff to comply with this court’s order to either pay the filing fee or show that he is in
7 imminent danger of serious physical injury.

8 **IT IS FURTHER ORDERED** that the clerk shall **ENTER JUDGMENT** accordingly and close
9 this case.

10 DATED this 7th day of June, 2012.

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CHIEF UNITED STATES DISTRICT JUDGE